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Γ	APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
	09/647,952	12/06/2000	Amit Gal-on	1268-107	7377
	7	590 09/19/2002			
Lowe Hauptman			EXAM	INER	
	Gilman & Berr Suite 310	ner		HELMER, GEORGIA L	
	1700 Diagonal Alexandria, V			ART UNIT	PAPER NUMBER
				1638	a
				DATE MAILED: 09/19/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 4) Interview Summary (PTO-413) Paper No(s) 5) Notice of Informal Patent Application (PTO-152)	~ ~	Application No. Applicant(s)					
- The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE of THIS COMMUNICATION. - Elements of them may be evaluable under the provision of 37 GPT, 13(6), in no event, however, may a reply be simily filed abels 5/K (MONTHS from the rating date of this communication. - If the period for reply abendine date or in communication. - If the period for reply abendine date or in communication. - If the period for reply abendine date or in communication. - If the period for reply abendine date of the control gate of the communication. - If the period for reply abendine date or control gate for the common date. - If all the only within the sate or exceeded paint for the remaining date of this communication. - Province of the period of the common date of the communication, and the period of the communication. - Province of the communication of the common date of the communication, even if simply filed, may reduce any Status 1)		09/647,952	GAL-ON, AMIT				
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Application/Control Number: 09/647,952

Art Unit: 1638

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- I. Group I: claim(s) 1-7, 10, 11, 12, 15, and 20, drawn to potyvirus nucleic acid with FRNK substitution.
- II. Group II: claims 8 and 9, drawn to potyvirus nucleic acid with FRNK substitution and substitution abolishing aphid transmissibility.
- III. Group III, claim(s) 13 and 14 drawn to a method of providing protection against viral infection.
- IV. Group IV, claim(s) 16, 17, and 20, drawn to a method of producing a mild strain of potyvirus.
- V. Group V, claim(s) 18-19, drawn to produce inoculated with recombinant potyvirus.

Art Unit: 1638

2. The inventions listed as Groups I-VI do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Recombinant potyvirus nucleic acid comprising a full length clone characterized in that its HC-Pro gene conserved FRNK box sequence contains a substitution are known in the art. See Huet, H et al. Mutations in the helper component protease gene of zucchini yellow mosaic virus affect its ability to mediate aphid transmissibility. J. General Virology, vol 75, 1994, pages 1407-1414.

- 3. Inventions I, II and V are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation, different functions, or different effects. Inventions I and II are nucleic acids sequences which are structurally distinct and have chemically distinct properties, one from the other. Where identity is required, as for hybridization, they have different effects. Invention V is biological produce, which is plant tissue, plant parts and whole plants. Invention V and I/II have different modes of operation, different functions, or different effects. I/II are chemical substances, and V is complex organized biological material.
- 4. Inventions III and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions they have different modes of operation, different

Application/Control Number: 09/647,952

Art Unit: 1638

functions, or different effects. The methods of III produce virus protection, whereas IV generates virus.

Page 4

- Inventions I and III are related as product and process of use. The inventions 5. can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used in a materially different process of using that product: the nucleic acids of Group I can be used as nucleic acid probes.
- 6. Inventions I and IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used in a materially different process of using that product: the nucleic acids of Group I can be used as nucleic acid probes.
- 7. Inventions II and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as

Art Unit: 1638

claimed can be used in a materially different process of using that product: the nucleic acids of Group II can be used as nucleic acid probes.

- 8. Inventions II and IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used in a materially different process of using that product: the nucleic acids of Group II can be used as nucleic acid probes.
- 9. Inventions V and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used in a materially different process of using that product: the produce of Group V can be used as biomass for energy production.
- 10. Inventions V and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as

Art Unit: 1638

claimed can be used in a materially different process of using that product: the produce of Group V can be used as biomass for energy production.

- 11. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
- 12. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper. Because these inventions are distinct for the reasons given above and the literature and sequence searches required for each of the Groups are not required for another of the Groups, restriction for examination purposes as indicated is proper.
- 13. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
- 14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Georgia L. Helmer whose telephone number is 703-308-7023. The examiner can normally be reached on 8:30 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson can be reached on 703-306-3218. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

PRIMARY EXAMINER

Page 6

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